

## **LAW ENFORCEMENT**

### **Mutual Legal Assistance**

#### **Inter-American Convention Between the UNITED STATES OF AMERICA and OTHER GOVERNMENTS**

Adopted at the Twenty-Second Regular  
Session of the Organization of  
American States General Assembly  
Meeting at Nassau, Bahamas on  
May 23, 1992

Signed by the United States at Washington  
on January 10, 1995



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

## MULTILATERAL

### Law Enforcement: Mutual Legal Assistance

*Inter-American Convention adopted at the twenty-second regular session of the Organization of American States General Assembly Meeting at Nassau, Bahamas on May 23, 1992;*

*Signed by the United States at Washington on January 10, 1995;*

*Transmitted by the President of the United States of America to the Senate September 3, 1997 (Treaty Doc. 105-25, 105<sup>th</sup> Congress, 1st Session);*

*Reported favorably by the Senate Committee on Foreign Relations September 27, 2000 (Senate Executive Report No. 106-24, 106th Congress, 2d Session);*

*Advice and consent to ratification by the Senate October 18, 2000;*

*Ratified by the President January 5, 2001;*

*Ratification of the United States of America deposited May 25, 2001;*

*Entered into force for the United States June 24, 2001.*

INTER-AMERICAN CONVENTION ON MUTUAL ASSISTANCE  
IN CRIMINAL MATTERS

PREAMBLE

WHEREAS:

The Charter of the Organization of American States, in Article 2.e, establishes that an essential objective of the American states is "to seek the solution of political, juridical, and economic problems that may arise among them"; and

The adoption of common rules in the field of mutual assistance in criminal matters will contribute to the attainment of this goal,

THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES

Do hereby adopt the following Inter-American Convention on Mutual Assistance in Criminal Matters:

CHAPTER I

GENERAL PROVISIONS

Article 1. PURPOSE OF THE CONVENTION

The states parties undertake to render to one another mutual assistance in criminal matters, in accordance with the provisions of this convention.

Article 2. SCOPE AND APPLICATION OF THE CONVENTION

The states parties shall render to one another mutual assistance in investigations, prosecutions, and proceedings that pertain to crimes over which the requesting state has jurisdiction at the time the assistance is requested.

This convention does not authorize any state party to undertake, in the territory of another state party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other party by its domestic law.

This convention applies solely to the provision of mutual assistance among states parties. Its provisions shall not create any right on the part of any private person to obtain or exclude any evidence or to impede execution of any request for assistance.

Article 3. CENTRAL AUTHORITY

Each state shall designate a central authority at the time of signature or ratification of this convention or accession hereto.

The central authorities shall be responsible for issuing and receiving requests for assistance.

The central authorities shall communicate directly with one another for all purposes of this convention.

#### Article 4

In view of the diversity of the legal systems of the states parties, the assistance to which this convention refers shall be based upon requests for cooperation from the authorities responsible for criminal investigation or prosecution in the requesting state.

#### Article 5. DOUBLE CRIMINALITY

The assistance shall be rendered even if the act that gives rise to it is not punishable under the legislation of the requested state.

When the request for assistance pertains to the following measures: (a) immobilization and sequestration of property and (b) searches and seizures, including house searches, the requested state may decline to render the assistance if the act that gives rise to the request is not punishable under its legislation.

#### Article 6

For the purposes of this convention, the act that gives rise to the request must be punishable by one year or more of imprisonment in the requesting state.

#### Article 7. SCOPE OF APPLICATION

The assistance envisaged under this convention shall include the following procedures, among others:

- a. notification of rulings and judgments;
- b. taking of testimony or statements from persons;
- c. summoning of witnesses and expert witnesses to provide testimony;
- d. immobilization and sequestration of property, freezing of assets, and assistance in procedures related to seizures;
- e. searches or seizures;
- f. examination of objects and places;
- g. service of judicial documents;
- h. transmittal of documents, reports, information, and evidence;

- i. transfer of detained persons for the purpose of this convention; and
- j. any other procedure provided there is agreement between the requesting state and the requested state.

#### Article 8. MILITARY CRIMES

This convention shall not apply to crimes that are subject exclusively to military legislation.

#### Article 9. REFUSAL OF ASSISTANCE

The requested state may refuse assistance when it determines that:

- a. The request for assistance is being used in order to prosecute a person on a charge with respect to which that person has already been sentenced or acquitted in a trial in the requesting or requested state;
- b. The investigation has been initiated for the purpose of prosecuting, punishing, or discriminating in any way against an individual or group of persons for reason of sex, race, social status, nationality, religion, or ideology;
- c. The request refers to a crime that is political or related to a political crime, or to a common crime prosecuted for political reasons;
- d. The request has been issued at the request of a special or ad hoc tribunal;
- e. Public policy (ordre public), sovereignty, security, or basic public interests are prejudiced; and
- f. The request pertains to a tax crime. Nevertheless, the assistance shall be granted if the offense is committed by way of an intentionally incorrect statement, whether oral or written, or by way of an intentional failure to declare income derived from any other offense covered by this convention for the purpose of concealing such income.

### CHAPTER II

#### REQUESTS FOR ASSISTANCE, PROCESSING AND EXECUTION

#### Article 10. REQUESTS FOR ASSISTANCE

Requests for assistance issued by the requesting state shall be made in writing and shall be executed in accordance with the domestic law of the requested state.



The procedures specified in the request for assistance shall be fulfilled in the manner indicated by the requesting state insofar as the law of the requested state is not violated.

#### Article 11

The requested state may postpone the execution of any request that has been made to it, with an explanation of its grounds for doing so, if it is necessary to continue an investigation or proceeding in progress in the requested state.

#### Article 12

Documents and objects delivered in compliance with a request for assistance shall be returned to the requested state as soon as possible, unless the latter decides otherwise.

#### Article 13. SEARCH, SEIZURE, ATTACHMENT, AND SURRENDER OF PROPERTY

The requested state shall execute requests for search, seizure, attachment, and surrender of any items, documents, records, or effects, if the competent authority determines that the request contains information that justifies the proposed action. That action shall be subject to the procedural and substantive law of the requested state.

In accordance with the provisions of this convention, the requested state shall determine, according to its law, what requirements must be met to protect the interests held by third parties in the items that are to be transferred.

#### Article 14. MEASURES FOR SECURING ASSETS

The central authority of any party may convey to the central authority of any other party information it has on the existence of proceeds, fruits, or instrumentalities of a crime in the territory of that other party.

#### Article 15

The parties shall assist each other, to the extent permitted by their respective laws, in precautionary measures and measures for securing the proceeds, fruits, and instrumentalities of the crime.

#### Article 16. DATE, PLACE AND MODALITY OF THE EXECUTION OF THE REQUEST FOR ASSISTANCE

The requested state shall set the date and place for execution of the request for assistance and may so inform the requesting state.

Officials and interested parties of the requesting state or their representatives may, after informing the central

authority of the requested state, be present at and participate in the execution of the request for assistance, to the extent not prohibited by the law of the requested state, and provided that the authorities of the requested state have given their express consent thereto.

### CHAPTER III

#### SERVICE OF JUDICIAL DECISIONS, JUDGMENTS, AND VERDICTS, AND APPEARANCE OF WITNESSES AND EXPERT WITNESSES

##### Article 17

At the request of the requesting state, the requested state shall serve notice of decisions, judgments, or other documents issued by the competent authorities of the requesting state.

##### Article 18. TESTIMONY IN THE REQUESTED STATE

At the request of the requesting state, any person present in the requested state shall be summoned to appear before a competent authority, in accordance with the law of the requested state, to give testimony or to provide documents, records, or evidence.

##### Article 19. TESTIMONY IN THE REQUESTING STATE

When the requesting state requests that a person appear in its territory to give testimony or a report, the requested state shall invite the witness or expert witness to appear voluntarily, without the use of threats or coercive measures, before the appropriate authority in the requesting state. If deemed necessary, the central authority of the requested state may make a written record of the individual's willingness to appear in the requesting state. The central authority of the requested state shall promptly inform the central authority of the requesting state of the response of the person.

##### Article 20. TRANSFER OF PERSONS SUBJECT TO CRIMINAL PROCEEDINGS

A person subject to criminal proceedings in the requested state whose presence in the requesting state is needed for purposes of assistance under this convention shall be transferred temporarily to the requesting state for that purpose if the person and the requested state consent to the transfer.

A person subject to criminal proceedings in the requesting state whose presence in the requested state is needed for purposes of assistance under this convention shall be transferred temporarily to the requested state if the person consents and both states agree.



The actions set forth above may be denied for the following reasons, among others:

- a. the individual in custody or serving a sentence refuses to consent to the transfer;
- b. as long as his presence is necessary in an investigation or criminal proceeding that is under way in the jurisdiction to which he is subject at the time;
- c. there are other considerations, whether legal or of another nature, as determined by the competent authority of the requested or requesting state.

For purposes of this article:

- a. the receiving state shall have the authority and the obligation to keep the transferred person in physical custody unless otherwise indicated by the sending state;
- b. the receiving state shall return the transferred person to the sending state as soon as circumstances permit or as otherwise agreed by the central authorities of the two states;
- c. the sending state shall not be required to initiate extradition proceedings for the return of the transferred person;
- d. the transferred person shall receive credit toward service of the sentence imposed in the sending state for time served in the receiving state; and
- e. the length of time spent by the person in the receiving state shall never exceed the period remaining for service of the sentence or 60 days, whichever is less, unless the person and both states agree to an extension of time.

#### Article 21. TRANSIT

The states parties shall render cooperation, to the extent possible, for travel through their territory of the persons mentioned in the preceding article, provided that the respective central authority has been given due advance notice and that such persons travel in the custody of agents of the requesting state.

Such prior notice shall not be necessary when air transportation is used and no regular landing is scheduled in the territory of the state party or states parties to be overflown.

## Article 22. SAFE-CONDUCT

The appearance or transfer of the person who agrees to render a statement or to testify under the provisions of this convention shall require, if the person or the sending state so requests prior to such appearance or transfer, that the receiving state grant safe-conduct under which the person, while in the receiving state, shall not:

- a. be detained or prosecuted for offenses committed prior to his departure from the territory of the sending state;
- b. be required to make a statement or to give testimony in proceedings not specified in the request; or
- c. be detained or prosecuted on the basis of any statement he makes, except in case of contempt of court or perjury.

The safe-conduct specified in the preceding paragraph shall cease when the person voluntarily prolongs his stay in the territory of the receiving state for more than 10 days after his presence is no longer necessary in that state, as communicated to the sending state.

## Article 23

In connection with witnesses or expert witnesses, documents containing the relevant questions, interrogatories, or questionnaires shall be forwarded to the extent possible or necessary.

## CHAPTER IV

### TRANSMITTAL OF INFORMATION AND RECORDS

## Article 24

In cases where assistance is carried out under this convention, the requested state, upon request and in accordance with its domestic procedure, shall make available to the requesting state a copy of the public documents, records, or information held by the government agencies or departments of the requested state.

The requested state may make available copies of any document, record, or other information held by a government agency or department of that state that is not public in nature, to the same extent as and subject to the same conditions under which they would be made available to its own judicial authorities or to others responsible for application of the law. The requested state, at its own discretion, may deny, in whole or in part, any request made under the provisions of this paragraph.

Article 25. LIMITATION ON THE USE OF INFORMATION OR EVIDENCE

The requesting state may not disclose or use any information or evidence obtained in the course of application of this convention for purposes other than those specified in the request for assistance without prior consent from the central authority of the requested state.

In exceptional cases, if the requesting state needs to disclose and use, in whole or in part, the information or evidence for purposes other than those specified, it shall request authorization therefor from the requested state, which, at its discretion, may accede to or deny that request, in whole or in part.

The information or evidence that must be disclosed and used to the extent necessary for proper fulfillment of the procedure or formalities specified in the request shall not be subject to the authorization requirement set forth in this article.

When necessary, the requested state may ask that the information or evidence provided remain confidential according to conditions specified by the central authority. If the requesting party is unable to accede to such request, the central authorities shall confer in order to define mutually acceptable terms of confidentiality.

CHAPTER V

PROCEDURE

Article 26

Requests for assistance shall contain the following details:

- a. the crime to which the procedure refers; a summary description of the essential facts of the crime, investigation, or criminal proceeding in question; and a description of the facts to which the request refers;
- b. proceeding giving rise to the request for assistance, with a precise description of such proceeding;
- c. where pertinent, a description of any proceeding or other special requirement of the requesting state;
- d. a precise description of the assistance requested and any information necessary for the fulfillment of that request.



When the requested state is unable to comply with a request for assistance, it shall return the request to the requesting state with an explanation of the reason therefor.

The requested state may request additional information when necessary for fulfillment of the request under its domestic law or to facilitate such fulfillment.

When necessary, the requesting state shall proceed in accordance with the provisions of the last paragraph of Article 24 of this convention.

#### Article 27

Documents processed through the central authorities in accordance with this convention shall be exempt from certification or authentication.

#### Article 28

Requests for assistance and the accompanying documentation must be translated into an official language of the requested state.

#### Article 29

The requested state shall be responsible for all regular costs of executing a request in its territory, except for those listed below, which shall be borne by the requesting state:

- a. fees for expert witnesses; and
- b. travel costs and other expenses related to the transportation of persons from the territory of one state to that of the other.

If it appears that the processing of the request might entail unusual costs, the states parties shall confer to determine the terms and conditions under which the assistance could be rendered.

#### Article 30

To the extent that they find it useful and necessary for furthering the implementation of this convention, the states parties may exchange information on matters related to its application.

#### Article 31

The domestic law of each party shall govern liability for damages arising from the acts of its authorities in the execution of this Convention.

Neither party shall be liable for damages that may arise from the acts committed by the authorities of the other



party in the formulation or execution of a request under this Convention.

## CHAPTER VI

### FINAL CLAUSES

#### Article 32

This convention shall be open for signature by the member states of the Organization of American States.

#### Article 33

This convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

#### Article 34

This convention shall remain open for accession by any other state. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

#### Article 35

Each state may make reservations to this convention at the time of signature, approval, ratification, or accession, provided that each reservation concerns at least one specific provision and is not incompatible with the object and purpose of the convention.

#### Article 36

This convention shall not be interpreted as affecting or restricting obligations in effect under any other international, bilateral, or multilateral convention that contains or might contain clauses governing specific aspects of international criminal judicial assistance, wholly or in part, or more favorable practices which those states might observe in the matter.

#### Article 37

This convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each state that ratifies or accedes to the convention after the deposit of the second instrument of ratification, the convention shall enter into force on the thirtieth day after deposit by such state of its instrument of ratification or accession.

### Article 38

If a state party has two or more territorial units in which different systems of law govern matters addressed in this convention, it shall state at the time of signature, ratification, or accession whether this convention will apply to all of its territorial units or only to one or more of them.

Such statements may be amended by way of subsequent statements, which shall expressly indicate the territorial unit or units to which the convention shall apply. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

### Article 39

This convention shall remain in force indefinitely, but any of the states parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the convention shall cease to be in effect for the denouncing state, but shall remain in effect for the other states parties.

### Article 40

The original instrument of this convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward authenticated copies of the text to the United Nations General Secretariat for registration and publication, in accordance with Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify the member states of that Organization and those states that have acceded to the convention of the signatures and deposits of instruments of ratification, accession, and denunciation, as well as of reservations, if any. It shall also transmit to them the statements specified in Article 38 of this convention.

NOTE: English text will be printed in this publication.

ORGANIZATION OF AMERICAN STATES

WASHINGTON, D. C.

GENERAL SECRETARIAT

Certifico que el documento preinserto es copia fiel y exacta de los textos auténticos en español, inglés, portugués y francés de la Convención Interamericana sobre Asistencia Mutua en Materia Penal, suscrita en Nassau, Bahamas, el 23 de mayo de 1992, en el vigésimo segundo período ordinario de sesiones de la Asamblea General de la Organización de los Estados Americanos, y que los textos firmados de dichos originales se encuentran depositados en la Secretaría General de la Organización de los Estados Americanos.

26 de marzo de 1996

I hereby certify that the foregoing document is a true and faithful copy of the authentic texts in Spanish, English, Portuguese and French of the Inter-American Convention on Mutual Assistance in Criminal Matters, signed at Nassau, Bahamas, on May 23, 1992, at the Twenty-second Regular Session of the General Assembly of the Organization of American States, and that the signed originals of these texts are on deposit with the General Secretariat of the Organization of American States.

March 26, 1996

Certifico que o documento transcrito é cópia fiel e exata dos textos autênticos em espanhol, inglês, português e francês da Convenção Interamericana sobre Assistência mútua em Matéria Penal, assinado em Nassau, Bahamas, em 23 de maio de 1992, no Vigésimo Segundo Período Ordinário de Sessões da Assembléia Geral, e que os textos originais assinados encontram-se depositados na Secretaria-Geral da Organização dos Estados Americanos.

26 de março de 1996

Je certifie que le document qui précède est une copie fidèle et conforme aux textes authentiques français, anglais, espagnol, et portugais de la Convention interaméricaine sur l'Entraide en Matière Penale, adopté à Nassau, Bahamas, le 23 mai 1992, lors de la vingt-deuxième Session ordinaire de l'Assemblée générale, et que des originaux signés de ces textes sont déposés auprès du Secrétariat général de l'Organisation des Etats Américains.

26 mars 1996

Por el Secretario General  
For the Secretary General  
Pelo Secretário-Geral  
Pour le Secrétaire général

  
William M. Berenson

Subsecretario de Asuntos  
Jurídicos Interino

Acting Assistant Secretary  
for Legal Affairs

Sub-Secretário Interino  
de Assuntos Jurídicos

Sous-secrétaire intérimaire pour  
les questions juridiques



ORGANIZATION OF AMERICAN STATES

WASHINGTON, D. C.

GENERAL SECRETARIAT

**PROCÈS-VERBAL OF THE SIGNATURE BY THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA OF THE INTER-AMERICAN  
CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS,  
DONE AT NASSAU, BAHAMAS, ON MAY 23, 1992.**

*The undersigned, Her Excellency Mrs. Harriett C. Babbitt, Ambassador, Permanent Representative of the United States of America and His Excellency Mr. César Gaviria, Secretary General of the Organization of American States, have this day met together at the Secretariat of the OAS for the purpose of proceeding to the signing by the Government of the United States of America of the Inter-American Convention on Mutual Assistance in Criminal Matters, done at Nassau, Bahamas, on May 23, 1992, at the Twenty-Second Regular Session of the General Assembly of the Organization of American States.*

*IN WITNESS WHEREOF, the undersigned have affixed their signatures to the present procès-verbal in Washington, D.C., in duplicate originals, this tenth day of January in the year nineteen hundred ninety-five.*



Harriett C. Babbitt

Ambassador, Permanent Representative of  
the United States of America to the  
Organization of American States

César Gaviria

Secretary General

Organization of American States